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PTO/SB/33 (07-05)

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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

01-036

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on April 26, 2006

Signature

Typed or printed name Margaret A. Jesz

Application Number

09/851,504

Filed

May 8, 2001

First Named Inventor

Theodore F. Vaida, et al.

Art Unit

2663

Examiner

Duc T. Duong

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐

applicant/inventor.

☐

assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒

attorney or agent of record.

Registration number David H. Hitt

☐

attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34

Signature

David H. Hitt

Typed or printed name

972-480-8800

Telephone number

April 26, 2006

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

☒

*Total of 1 forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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ATTORNEY DOCKET NO. 01-036

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Theodore F. Vaida, *et al.*
Serial No.: 09/851,504
Filed: May 8, 2001
Title: A FIELD PROGRAMMABLE NETWORK APPLICATION SPECIFIC
INTEGRATED CIRCUIT AND A METHOD OF OPERATION
THEREOF
Grp./A.U.: 2663
Examiner: Duc T. Duong

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, Alexandria, VA 22313, on <u>April 26, 2006</u> (Date)	
<u>Margaret A. Jesz</u> (Printed or typed name of person signing the certificate)	
<u>Margaret A. Jesz</u> (Signature of the person signing the certificate)	

Sir:

PRE-APPEAL BRIEF REQUEST FOR REVIEW

The Applicants have carefully considered this Application in connection with the Examiner's Final Rejection in an Office Action mailed March 8, 2006, and respectfully request a pre-appeal brief review of this application in view of the following remarks.

REMARKS/ARGUMENTS

The Applicants originally submitted Claims 1-42 in the application. Claims 8 and 18 have been cancelled. Accordingly, Claims 1-7, 9-17 and 19-42 are currently pending in the application. The Examiner has indicated that Claims 21-42 are allowable and that Claims 9 and 19 would be allowable if rewritten in independent form. (See Office Action, page 4.) The Applicants assert that pending claims 1-7, 10-17 and 20 are also allowable.

I. Rejection of Claims 1-7, 10-17 and 20 under 35 U.S.C. § 102

The Examiner has rejected Claims 1-7, 10-17 and 20 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,347,347 B1 to Brown, *et al.* The Applicants respectfully traverse the rejection, because Brown does not teach each and every element of independent Claims 1 and 11.

Claims 1 and 11 include the element “a programmable logic core having an array of dynamically configurable arithmetic logic units.” The Examiner has cited FIGs. 1 and 2, and column 4 lines 36-47 as teaching this element. The Applicants respectfully submit that the Examiner is incorrect. Brown teaches an architecture for a network interface card 14 having an ASIC 16. (See FIG. 1, col. 1, line 63-col. 2, line 2.) The ASIC 16 includes a processor 28. (See FIG. 1, col. 2, lines 12-16.) The internal architecture of the processor 28 is shown in FIG. 2. This figure, and supporting text, describes a processor core 30 and various bus drivers (80, 82, 84), read buffers (72, 74), address registers (90, 92, 94, 96) and a multiplexer 98. (See column 4, line 36, *et seq.*)

In a telephone interview conducted with the Applicants’ agent, the Examiner indicated that he interpreted such structural details as teaching an ALU. The Applicants strongly disagree with this interpretation. One of ordinary skill in the art understands that an ALU includes functional units providing the means to add and subtract, and perform bit shifting operations, among others. Brown does not teach any such functional units in the portions cited by the Examiner. Moreover, even if the

architecture of FIG. 2 taught an ALU, which it does not, it is silent with respect to an array of such ALUs, and whether an ALU is dynamically configurable. While it is true that the Examiner may apply the broadest reasonable meaning of the words in the claim, he is constrained to apply the reasonable meaning of the words of the claim as they would be understood by one of ordinary skill in the art. That is not the case here. One of ordinary skill in the art would understand that Brown does not teach the limitations at issue.

Thus, Claims 1 and 11 are novel over Brown. Accordingly, the Applicants respectfully request that the Examiner withdraw the rejection of Claims 1-7, 10-17 and 20 under 35 U.S.C. § 102(e) and allow issuance thereof.

II. Conclusion

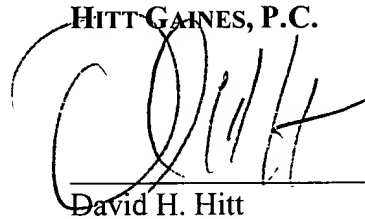
In view of the foregoing remarks, the Applicants now see all of the Claims currently pending in this application to be in condition for allowance and therefore earnestly solicit a Notice of Allowance for Claims 1-7, 10-17 and 20.

The Commissioner is hereby authorized to charge any fees connected with this communication or credit any overpayment to Deposit Account No. 08-2395.

The Applicants request the Examiner to telephone the undersigned attorney of record at (972) 480-8800 if such would further or expedite the prosecution of the present application.

Respectfully submitted,

HITT GAINES, P.C.

A handwritten signature in black ink, appearing to read 'D. Hitt', is written over a horizontal line.

David H. Hitt

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Dated: April 26, 2006

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